

would have an unstable knee that, at some point in the future, would require surgery. On August 12, 1997 claimant injured the same knee at work. This injury caused a tear of claimant's medial collateral ligament. Generally, a medial collateral ligament tear does not require surgery but is instead treated conservatively. In this case, however, surgery is recommended to repair the preexisting ACL tear.

In the opinion of the treating physician, Dr. Richard J. Brennan, it was the August 12, 1997 accident that caused the present need for the ACL surgery. He stated:

[M]y opinion is that the last accident she had a posterior capsular tear which was the final insult to this knee. She was able to function at a fairly difficult job for a long period of time prior to the last injury and now she is unable to do that. I think this is the result of the most recent injury which is posterior capsular tear.

The test for whether the surgery for the ACL condition is compensable is not whether the injury caused the condition, but whether the injury aggravated or accelerated the condition. In this case, the work-related injury aggravated the instability in claimant's knee and accelerated the need for surgery. Claimant is entitled to medical benefits for the increased instability of the knee including, if necessary, surgery to correct the preexisting ACL tear. See Woodward v. Beech Aircraft Corporation, 24 Kan. App. 2d 510, 949 P.2d 1149 (1997).

The Appeals Board finds the recommended ACL surgery to be compensable as arising out of and in the course of her employment because the need for this surgery was accelerated by the work-related accident.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated February 16, 1998 entered by Administrative Law Judge Julie A. N. Sample should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1998.

BOARD MEMBER

c: Davy C. Walker, Kansas City, KS
D'Ambra Howard, Overland Park, KS
Julie A. N. Sample, Administrative Law Judge
Philip S. Harness, Director